

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAMONT SIMMONS,

Plaintiff,

-against-

**ANSWER ON BEHALF OF
JEMMOTT AND COOPER**

08 CV 2198 (BSJ)(KNF)

CAPTAIN JEMMOTT BADGE 63; CORRECTION
OFFICER COOPER 7-3 TOUR; CORRECTION
OFFICER CASTRO 7-3 TOUR; CORRECTION
OFFICER GREENE 7-3 TOUR; JOHN DOE
CORRECTIONAL OFFICER 7-3 TOUR,

Jury Trial Demanded

Defendants.

----- X

Defendants Clayton Jemmott¹ and Patrick Cooper² by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the complaint, respectfully allege, upon information and belief, as follows:³

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Part "I" of the Prisoner Form Complaint entitled "Parties in this Complaint" and its subparts, except admit that plaintiff purports to proceed as stated therein.
2. Deny the allegations set forth in Part "II" of the Prisoner Form Complaint entitled "Statement of Claim" and its subparts, except that plaintiff was incarcerated at Otis Banton Correctional Center on January 18, 2008.

¹ Sued herein as "Captain Jemmott Badge 63".

² Sued herein as "Correction Officer Cooper 7-3 Tour".

³ Upon information and belief, the individuals identified in the caption as "Correction Officer Castro 7-3 tour" and "Correction Officer Greene 7-3 tour" have not been served with process and, therefore, are not parties to this action.

3. Deny the allegations set forth Part “III” of the Prisoner Form Complaint entitled “Injuries”.
4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Part “IV” of the Prisoner Form Complaint entitled “Exhaustion of Administrative Remedies” and its subparts.
5. Deny the allegations set forth in Part “V” of the Prisoner Form Complaint, entitled “Relief” except admits that plaintiff purports to proceed as stated therein.
6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Part “VI” of the Prisoner Form Complaint entitled “Previous Lawsuits” and its subparts.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. The complaint fails, in whole or in part, to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct and/or the intervening conduct of third parties and was not the proximate result of any act of the defendants.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

17. Plaintiff has not satisfied all the conditions precedent to suit.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

18. To the extent the complaint alleges any claims arising under the laws of the state of New York, plaintiff failed to comply with New York General Municipal Law §§ 50(e) and 50(i).

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

19. Defendants Jemmott and Cooper have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, are entitled to qualified immunity.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE


20. Plaintiff may have failed to satisfy all conditions precedent to suit.

WHEREFORE, defendants Jemmott and Cooper request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 27, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
*Attorney for Defendants Jemmott and
Cooper*
100 Church Street, Rm. 3-148
New York, New York 10007
(212) 788-1277

By:


JOYCE CAMPBELL PRIVETTE (JCP 1846)
Assistant Corporation Counsel

TO:

Lamont Simmons
Plaintiff *pro se*
#241-07-11193
16-00 Hazen Street
East Elmhurst, NY 11370

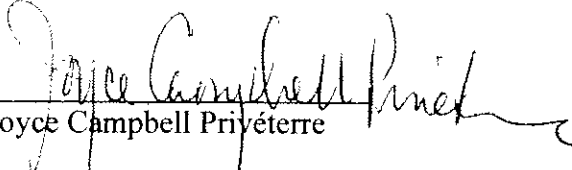
DECLARATION OF SERVICE BY MAIL

I, Joyce Campbell Priv  terre, declare, pursuant to 28 U.S.C.   1746, under penalty of perjury that on August 28, 2008, I served the annexed ANSWER upon the following plaintiff *pro se* by depositing a copy of same, enclosed in a first class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to plaintiff at the address set forth below, being the address designated by plaintiff for that purpose:

Lamont Simmons
Plaintiff *pro se*
#241-07-11193
16-00 Hazen Street
East Elmhurst, NY 11370

and by ECF

Dated: New York, New York
August 28, 2008


Joyce Campbell Priv  terre

Index No. **08 CV 2198 (BSJ)(KNF)**

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OFFICER GREENE 7-3 TOUR, JOHN DOE
CORRECTIONAL OFFICER 7-3 TOUR,

Defendants.

ANSWER

MICHAEL A. CARDOZO

*Corporation Counsel of the City of New York
Attorney for Defendants Jemmott and Cooper
City of New York
100 Church Street, Room 3-148
New York, N.Y. 10007*

*Of Counsel: Joyce Campbell Priv  terre
Tel: (212) 788-1277
NYCLIS No.*

Due and timely service is hereby Admitted.

New York, N.Y. , 2008

, Esq.

Attorney for